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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/729,343 10/16/96 LEE

D

EXAMINER

HM12/0720

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BOSTON MA 02109-2891

KULKOSKY, P

ART UNIT

PAPER NUMBER

1615

DATE MAILED:

07/20/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

08/29343

Applicant(s)

D.P. LEE ET AL

Examiner

P. KULTOSKY

Group Art Unit

1615

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

P r i d f r Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE THREE MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on DECEMBER 17, 1999
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 1 1; 453 O.G. 213.

Dispositi n of Claims

- ☒ Claim(s) 1-7, 9-16, 21-26 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-7, 9-16, 21-26 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Applicati n Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) _____.
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

Attachm nt(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Pap r No(s). 23
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

Art Unit: 1615

The request filed on December 17, 1999 for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) based on parent Application No. 08/729,343 is acceptable and a CPA has been established. An action on the CPA follows.

Claims 1-7, 9, 16, 21-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 94/04657 or Constantz 4,880,610 or WO 94/02412 each taken alone or in view of Fukase et al. J. Dent. Res. (1990) and Rey et al. Abstract.

It would be obvious to apply the setting material of the instant claims in view of the in vivo techniques described in the primary reference specifications. The choice of material and curing catalytic mechanism would be obvious as the method of the claims makes use of known setting reactions of calcium phosphate (see, i.e. the background material of Fukase et al).

Improved results must be demonstrated to the effect that the in situ method of the claims is improved as compared to the results obtained in the primary references.

Claims 1-7, 9-16, 21-26 are rejected under 35 U.S.C. 112, par. 2.

The claims do not point out the critical materials clearly. The terms "poorly crystalline apatitic calcium phosphate" does not correspond to definite chemical formula which can be clearly interpreted by those skilled in the art. The terms "hydrated precursor paste", "promoter" "wherein the hardening process is associated with an endothermic reaction" are not distinct and are suggested to be replaced by definite chemical compound formulas and reaction conditions which would correspond to those used, for example, in the specification demonstrations.

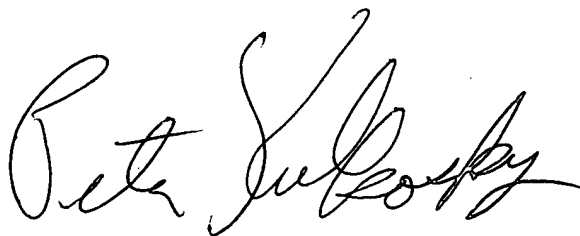
Art Unit: 1615

Any inquiry concerning this communication should be directed to Peter Kulkosky at telephone number (703) 308-2380.

P. Kulkosky:jmr

July 10, 2000

July 19, 2000

A handwritten signature in black ink, reading "Peter Kulkosky". The signature is written in a cursive style with a large, stylized "P" and "K".

PETER F. KULKOSKY
PRIMARY EXAMINER